

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAY CLARENCE ROGERS,

Plaintiff,

v.

L. REICHARD, *et al.*,

Defendants.

CASE NO. C23-1812-JCC

ORDER

This matter comes before the Court on the referral notices from the United States Court of Appeals for the Ninth Circuit (Dkt. Nos. 42, 44), who referred this matter to determine whether *in forma pauperis* status should continue. (*Id.*)

“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). “[A]n appeal is not taken in good faith . . . if there is some evident improper motive or if no issue is presented which is not plainly frivolous.” *Tweedy v. United States*, 276 F.2d 649, 651 (9th Cir. 1960); *see also Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (“If at least one issue or claim is found to be non-frivolous, leave to proceed in forma pauperis on appeal must be granted.”).

In the underlying case, United States Magistrate Michelle L. Peterson granted Plaintiff’s motion to proceed *in forma pauperis* and later issued a report and recommendation, which this Court adopted, recommending that Plaintiff’s complaint be dismissed for failure to state a claim.

1 (Dkt. Nos. 5, 29, 37.) Plaintiff now seeks review of this decision. (See Dkt. Nos. 39, 40.) But the
2 Court finds that Plaintiff's complaint lacked an arguable basis in law and, as such, it shall be
3 considered frivolous for purposes of *in forma pauperis* status on appellate review. See *Neitzke v.*
4 *Williams*, 490 U.S. 319, 325 (1989).

5 Accordingly, the Court CERTIFIES that Plaintiff's appeal is not taken in good faith and
6 REVOKES his *in forma pauperis* status. The Court respectfully DIRECTS the Clerk to send this
7 order to the Court of Appeals. The Court further DIRECTS the Clerk to send a copy of this order
8 to Plaintiff.

9 DATED this 7th day of November 2024.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE